



Costs Decision

Site visit made on 1 August 2023 by Andreea Spataru BA(Hons) MA MRTPI

Decision by S. Ashworth BA BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 September 2023

Costs application in relation to Appeal Ref: APP/D2510/W/23/3315025 The Stables, Sloothby High Lane, Hogsthorpe, Lincolnshire PE24 5PG

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr and Mrs Bartle against the decision of East Lindsey District Council.
 - The appeal was against the refusal of planning permission for the proposed development described as "two storey house including detached garage".
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Decision

1. The application for an award of costs is refused.

Procedure

2. A representative of the Inspector has set out the recommendation below, to which the Inspector has had regard before deciding the application.

Reasons for the Recommendation

3. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and, thereby, caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
 4. The Guidance also makes it clear that costs cannot be claimed for the period during the determination of the planning application although all parties are expected to behave reasonably throughout the planning process. Although costs can only be awarded in relation to unnecessary or wasted expense at the appeal or other proceeding, behaviour and actions at the time of the planning application can be taken into account in determining whether or not costs should be awarded.
 5. The key arguments are that the Council has assessed the appeal proposal against policies that are not relevant to it, and that the Council did not take into account the findings regarding the sequential test and exception test, as outlined within the submitted Flood Risk Assessment (FRA).
 6. Whilst I have taken into account the parties' disagreement over the relevance of Policy SP17 of the East Lindsey Local Plan Core Strategy 2018 (LPCS), this matter alone did not inform the Council's reason for refusal.
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7. Both parties acknowledge that the appeal site is located within the East Lindsey Coastal Hazard Zone and flood zone 3 on the Environment Agency's map. Given the location of the appeal site, I found necessary to assess the proposal against Policy SP18(2) of the LPCS and the requirements of the National Planning Policy Framework (the Framework), which include the sequential and exception tests. Having done this, I have concurred with the Council and found that it has not been demonstrated that the appeal site is an appropriate location for the proposed development, having regard to the risk of flooding.
8. Therefore, I consider that even if the Council had not assessed the appeal development against Policy SP17 of the LPCS, the application would have still been refused. Whilst the Council could have detailed their reason behind their conclusion that the proposal does not pass the sequential and exception tests, it is clear from all I have read that the Flood Risk Assessment was taken into account. On that basis, it seems to me that there was a fundamental disagreement between the parties on the merits of the case, which could have only been resolved through the appeal's process.

Recommendation

9. Accordingly, I conclude that the Council has not acted unreasonably and thereby caused the applicants to incur unnecessary or wasted expense. A claim for costs, either in whole or in part, is therefore not justified. Consequently, it is hereby recommended for refusal.

Andreea Spataru

APPEAL PLANNING OFFICER

Inspector's Decision

10. I have considered all the submitted evidence and my representative's recommendation, and on that basis the application for an award of costs is refused.

S. Ashworth

INSPECTOR